



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

December 5, 2014

TO: ALL OFFERORS

FROM:

SUBJECT: **ADDENDUM TO REQUEST FOR PROPOSAL  
CONTRACT NO. OMB15101-BUDGET\_SYS  
BUDGET SYSTEM SELECTION AND IMPLEMENTATION**

**ADDENDUM #2**

This provides responses to vendor questions.

The following is a list of vendor questions and the state's responses for the solicitation to Contract No. OMB15101-BUDGET\_SYS.

Question (Q)1. Section II. A., Paragraph 2, Page 3 - Please provide information on the current workflows surrounding the current DBS.

**Answer (A)1. Current work flow is identified in the RFP under Section II. Scope of Services, A. Current Business Processes, 1. Annual Budget Process, pages 1-3.**

Q2. Section II. A., Paragraph 2, Page 3 - Please provide design details and documentation for the current DBS system developed using Microsoft Enterprise Reporting 7.5.

**A2. This is not required as the State is looking for best value for a new system.**

Q3. Does OMB intend to continue the use of Enterprise Reporting 7.5?

**A3. No, Enterprise Reporting 7.5 is the current budget system. The purpose of this RFP is to develop a budget system that will replace the current system.**

Q4. Does the state expect vendors to propose a different reporting tool from Enterprise Reporting 7.5? If so, does OMB have a preference or have ruled out the use any particular tool? If so, please identify such tool(s).

**A4. The budget application for our system is called Enterprise Reporting 7.5. This system is no longer supported and will be replaced with the successful vendor product.**

Q5. Section II. A., Paragraph 1 (g), Page 3 - The term "GAAP" is used in several places. Please confirm what the acronym stands for, is it a reference to "Generally Accepted Accounting Principles" or some other term?

**A5. Generally Accepted Accounting Principles**

Q6. Section II., Paragraph A10, Page 10 - Please identify this web-based database application, the version in use by the State. Will this application continue to be used to scrub the data or is the new system required to scrub the data before import?

**A6. We use a web application and SQL Server database that was designed in house to normalize data from our PeopleSoft accounting system to the current DBS. It would be nice if our new budget system didn't require a secondary program to normalize the data.**

Q7. Section II., Paragraph B1, Page 11 - Provide details on (1) the system administration functions the new system is expected to enable OMB to transition to end users and (2) the number of end users that would assume these functions, their level of familiarity with these functions, and their experience and familiarity with IT system administration function, roles, and responsibilities.

**A7. Please see Addendum# 2 for clarification of user roles and the number of current users.**

Q8. Section II.B., Paragraph 2a and 2b, Page 11-12 - Please provide estimates or ranges for the total number of system users, as well as the number of system users broken down by type of access.

**A8. Please see Addendum# 2 for clarification of user roles and the number of current users.**

Q9. Section II. B., Paragraph 8, Page 14 - Please detail at what point in budget work flow non-OMB agency personnel are expected to use the new system. For example, will they use Excel up to a point then transfer information to the new system, or will the system be utilized from the very start of the budget work flow at a non-OMB agency?

**A9. Non-OMB agency personnel are required to use the budget system for formal budget request submissions. Agency business processes vary by agency and may include use of Excel prior to budget request entry and submission.**

Q10. Section II. B., Paragraph 10, Page 14 - Please provide copies of/or samples of the existing reports currently in use by OMB that should be incorporated into the new system.

**A10. Budget bills and books for the State of Delaware are published in PDF on the Internet at <http://budget.delaware.gov>. Fiscal Year 2015 Governor's Recommended Operating Budget Volume II provides examples of existing reports that will be incorporated into the new system.**

Q11. Section II. B., Paragraph 13, Page 17 - Please clarify (1) whether this 10 year period is inclusive of the years extending back through FY2010 with respect to the Operating budget. (2) the first year of the first 10 year period anticipated (particularly for Capital Budget data). For example, is the first year of the 10 year period the year in which the system goes live? (3) where years are Fiscal Years or Calendar Years.

A11. (1) 10 year period is inclusive of years extending back through FY 2010 with respect to Operating budget. (2) The first year of the first 10 year period for Capital budget data would be the year in which the system goes live. (3) Years are represented in Fiscal Years.

Q12. Section II. B., Paragraph 15(b), Page 17 - Please provide details on the current work flow and the desired state. If neither is well-documented, please confirm the estimated timeline, level of effort, and OMB and non-OMB agency staff availability for providing this information as part of the contract project delivery.

A12. Current work flow is identified in the RFP under Section II. Scope of Services, A. Current Business Processes, 1. Annual Budget Process, pages 1-3.

Q13. Section II. B., Paragraph 15(d), Page 17 - Please identify the version of PeopleSoft ERP, any expected upgrades during the period of performance, and the number of interfaces.

A13. The State currently operates PeopleSoft version 9.1 for accounting and human resource components. No upgrades are scheduled through the planned period of implementation of a new budget system. We do not interface directly PeopleSoft ERP, data is transferred via fixed width text files.

Q14. Section II. C., Paragraph 2, Page 17-18 - Please provide details on all current OMB business practices so that they can be evaluated for application to our software solution and evaluation for the estimated effort for reengineering.

A14. Current business practices are identified in the RFP under Section II. Scope of Services, A. Current Business Processes, pages 1-11.

Q15. Section II. C., Paragraph 2, Page 17-18 - Please provide examples of OMB personnel experience with prior reengineering efforts and indicate how many OMB personnel will be dedicated to this effort, on a full or part time basis, and the State's anticipated timeline for reengineering.

A15. Technical and functional experts are currently available to review RFP responses. Once a vendor is selected, resources will be made available as necessary based on the product selected.

Q16. Section II. C., Paragraph 2, Page 17-18 - Regarding state user agencies, is it appropriate to assume every organization using the new system will utilize the same budgetary templates? Similar processes? Please describe any differences from OMB and distinctions among the state user agencies.

A16. All agencies use the same application interface to generate the budget.

Q17. Section II. C., Paragraph 2, Page 17-18 - How many user agencies/users will access the new system? How many will contribute information to it? How many will pull information from it?

A17. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q18. Section II. C., Paragraph 3, Page 18 - How many workshops does the State contemplate taking place, and how many days for each workshop? Will these be centralized or decentralized at locations throughout the state?

A18. The number of workshops will be based on the product selected. Workshops will be centralized and will likely include staff from OMB only.

Q19. Section II. C., Paragraph 3, Page 18 - Please identify the existing systems that require interfaces to be developed and the software versions those systems are currently operating on.

A19. We interface with the FSF accounting system annually this process is described in Section 1G on page 3 of the RFP.

Q20. Section II. C., Paragraph 3, Page 18 - Are there Federal budget monitoring requirements (temporary and permanent) that must be considered as part of the solution?

A20. There are no Federal budget monitoring requirements

Q21. Section II. C., Paragraph 3, Page 18 - For the purposes of planning and pricing, please provide information on the following, for the current systems and the future system:

- Number of users
- Number of business process flows identified (from agency level to OMB level)
- Number of reports
- Any other quantification of resources and/or usage

A21. There are currently 208 users. Current work flow is identified in the RFP under Section II. Scope of Services, A. Current Business Processes, 1. Annual Budget Process, pages 1-3. There are currently over 140 reports in DBS; however, that number could be greatly decreased with Ad Hoc queries and reports.

Q22. Section II. C., Paragraph 3, Page 18 - Is there a required database environment for the new system (e.g., ORACLE, MySQL or SQL Server)?

A22. There is no database requirement.

Q23. Section II. C., Paragraph 3, Page 18 - Are there any version requirements for browser, OS, support tools such as Word, Excel, Acrobat, etc.? If so, and if maintenance is no longer provided by the product company, please describe the expected approach for paying for maintenance and related or affected services, such as security?

A23. DBS currently uses IE. Support for other browsers is desirable but not required.

Q24. Section II. C., Paragraph 3, Page 18 - Are there any Personally Identifiable Information (PII) compliance requirements for this effort?

A24. The current budget system contained no PII beyond user IDs and passwords. Standards for web security are detailed under the Mandatory Standards for local solutions (page 57) or the Terms and Conditions for Cloud and Offsite Hosting (page 63).

Q25. Section II. C., Paragraph 3, Page 18 - Are there any compliance requirements for this effort that relate to the accessibility of web content to handicapped individuals (e.g. similar to Federal requirements under Section 508 of the Rehabilitation Act?)

A25. Since no Federal funds are needed for this project, 508 style accessibility rules are not required. However, accessibility is highly desirable.

Q26. Section II. C., Paragraph 4, Page 18 - Please identify the number of “trainers” to be trained by the contractor. Will the contractor be required to deliver and distribute copies of training materials for all trainers, for all personnel/end users of the system, or only one master “photo ready” set of materials for state reproduction and distribution? If the former, please identify the type and number of training material sets required for delivery under the contract.

A26. Approximately 20 individuals will need to be trained by the vendor. The vendor will be required to provide one master “photo ready” or electronic set of materials for state reproduction and distribution.

Q27. Section II. C., Paragraph 6, Page 18 - Please clarify the scope and implication of the paragraph heading, “Unit and Integration Testing.”

A27. The vendor will be responsible for the configuration of the system. The vendor may choose to utilize a development environment for the initial user acceptance testing and development.

Q28. Section II. C., Paragraph 6, Page 18 - Do the client’s needs require an emphasis on the environment, the testing approach, or both? The text focuses on “configuration, setup and modification” whereas the heading addresses testing.

A28. The State’s focus will be on acceptance testing. The vendor’s focus will be on providing the environment that is to be tested.

Q29. Section II. C., Paragraph 6, Page 18 - Are there any performance requirements defined for the solution?

A29. The focus will be on user acceptance. Performance metrics will be defined based on the functionality of the product.

Q30. Section II. C., Paragraph 6, Page 18 - Is there a preferred performance testing tool? Does the State have any recommended approach or tool for performing stress testing or should we select a tool of our choice?

A30. The State’s focus will be on acceptance testing. The State will defer to the vendor to select tools to test system performance.

Q31. Section II. C., Paragraph 7, Page 18 - Please provide information on the number, skill level, and availability (e.g. considering the busiest times of the budget cycle) of OMB staff who will work with the Vendor on this task.

A31. Functional experts are currently available to review RFP responses. Once a vendor is selected, resources will be made available as necessary based on the product selected. The busiest times of the budget cycle include the months of January, May, June and December.

Q32. Section II. C., Paragraph 7, Page 18 - Are “data cleansing” efforts expected to be needed as part of this effort? If so, please provide details on their scope.

A32. The amount of “data cleansing” effort will be determined by the functionality of the vendor’s proposed solution. The current budget system (DBS) has a very robust capability to export data. The solution’s import capability will drive “data cleansing” needs.

Q33. Section II. C., Paragraph 7, Page 18 - Should the phrase “Application Updates” be viewed as an exercise meant to capture the new system’s use of legacy applications? Or is it the modification to any underlying COTS product in the solution proposed? Or an update to a component of the new system that might typically be conducted under Item 10, Post Implementation”? Please also clarify the term “Reporting/Application” and any needed updates.

A33. “Application Updates” would refer to patches, updates, or system changes. Once data conversion is complete, the new system will not be interfacing with legacy applications. The need for modifications to an underlying COTS would be determined by the vendor. Once the system goes live, updates would fall under “Post Implementation Support.” “Reporting” would refer to any vendor created canned reports.

Q34. Section II. C., Paragraph 10, Page 19 - Are there specific Service Level Agreements for maintenance tasks (e.g., emergency, important, routine, “nice-to-have”, etc.) expected for this new system? Are there SLAs of this kind for any State system?

A34. SLAs will depend on the type of solution selected and components purchased. If a vendor has proposed SLA language, please offer it as part of the proposal response.

Q35. Section II. D., Paragraph 3, Page 19 - Regarding risks, are there specific limitations (such as single points of failure) in the existing architecture or environment that OMB wishes to remedy with the new system?

A35. No. The current budget system is housed in a data center with redundant hardware capabilities and adequate backup/disaster recovery preparation. It is expected that the vendor’s risk mitigation strategy will meet or exceed our current system.

Q36. Section II. E., Paragraph 3, Page 19 - Given the nature of the state and local budget system market and the forms of partnering that are structured to best support the public sector, will references and past performance examples from key Teaming partners and Subcontractors be accepted, or must all references and past performances be for the Prime Contractor only?

A36. All references will be accepted.

Q37. Section II. F., Paragraph 1, Page 20 - Regarding “all other costs”, can a vendor assume the State has enough database licenses to support the environment? If not, will the state provide information on current license costs and work with vendors to negotiated a mutually understood agreement on responsibilities for this cost?

A37. Database licensing needs and costs will be determined by the vendor’s proposed solution.

Q38. Section II. F., Paragraph 2, Page 20 - Please provide definitions, including quantifiable factors, and examples for each category of “small, medium, large and significant changes” as used in this Section.

A38. Definitions for the category of small and large changes” is provided in the Appendices, Vendor Instructions.

Q39. Section II F., Paragraph 3, Page 20 - Please clarify the preferred contract type (FFP, T&M, Cost Plus Fee). Will the State accept various contract types for various phases of the effort?

A39. The State of Delaware wishes to consider all available options in order to find the best value for the State of Delaware. The State's solicitation is structured so that respondents may offer their best solution.

Q40. Section II F., Paragraph 3, Page 20 - May estimated costs for cloud hosting be treated separately from the rest of the contract (regardless of contract type) given that usage, instances, and other information is currently unavailable and may be variable over the life of the contract.

A40. Pricing estimates must be included in the RFP response.

Q41. Section III. B., Paragraph 3, Page 21 - Please provide clarification as to what constitutes acceptable “Financial Condition”. What is required to be submitted in order to demonstrate that the offeror has sufficient financial capacity?

A41. This requirement has been included in an effort to determine that vendors have the necessary resources to complete the project. Documentation which identifies financial stability of a vendor, such as financial statements, Securities and Exchange Commission filings, etc. will be considered.

Q42. Section III. B., Paragraph 6, Page 22 - Please provide clarification regarding the “Distribution of work to individuals and firms or economic considerations” evaluation requirement. Are there goals or minimum requirements that must be met in this area? Please explain this requirement.

A42. This requirement has been included to determine if work will be outsourced or completed within the vendor's organization. If work is to be outsourced, please identify the balance of workload between the vendor and any subcontractors.

Q43. Section IV. B., Paragraph 2, Page 23 - Due to the information requested and information that we anticipate being provided in response to Questions from Vendors, is it feasible to provide for a brief second round of questions in order to seek clarification and /or confirmation of information to support a comprehensive response to this RFP?

A43. No. Please submit your proposal as directed in the Request for Proposal.

Q44. Will the State extend the due date for proposals to allow time for thorough review and analysis of the answers to questions?

A44. Yes, the State intends to extend the due date through December 26, 2014.

Q45. Section III. B., Paragraph 11, Page 25 - In lieu of essentially submitting the great majority of our proposal under sealed envelope as prescribed, would the State consider accepting a fully



detailed proposal along with a “redacted copy” identifying material that is exempt by definition and should not be considered part of the “public record”?

A45. No. Please submit your proposal as directed in the Request for Proposal.

Q46. Section IV. B., Paragraph 14. a., Page 27 - Please clarify the date and time for the posting of responses to questions. Will the State entertain a second round of questions once additional information is available based on responses to questions submitted on December 1st?

A46. Questions received by the initial deadline of December 1, 2014 at 3:00 pm will be posted by December 5, 2014.

Q47. Section IV. D., Paragraph 3. b., Page 32 - Please provide a copy of the State's standard contractual provisions (or a detailed link or citation to them) so that they can be reviewed thoroughly and considered prior to proposal submission.

A47. Following the list of vendor questions and state responses, please find a copy of our standard Professional Services Agreement (PSA), subject to amendment as necessary, which OMB will execute with the awarded vendor. As part of the PSA; the original Request For Proposal along with any amendments, vendor proposal, an identified and agreed to Scope of Work (SOW), vendor acknowledged state technology terms and conditions, and any other relevant documents will be exhibits for inclusion in the executed PSA.

Q48. Section IV. D., Paragraph 7. a., Page 33 - Does the State expect to require work to be performed in Delaware at a designated State facility (or facilities) or will the contractor be able to determine the most efficient place of performance for each phase of the work and requirements?

A48. No, the contractor will be able to determine the most efficient place of performance for each phase of the work and requirements. Please note however that per Section II. D. 7. o. “No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.”

Q49. Section IV. D., Paragraph 7. i., Page 37 - We assume that the set of “State’s requirements” subject to warranty will be based on the final approved design documents and other accepted deliverables establishing the final set of system requirements. Is this correct?

A49. Yes.

Q50. Section IV. D., Paragraph 7. j., Page 37 and Appendix C-1 7 - Please clarify the use of the terms “Pricing” and “Cost” as applicable to Appendix C-1. Does the State use these terms interchangeably?

A50. Yes, in this context, they are used interchangeably.

Q51. Row 3 of Appendix C-1 - “Core Not to Exceed Cost” items. Are these items to be proposed as cost ceilings for billing, or as fixed price amounts?



A51. The State of Delaware wishes to consider all available options in order to find the best value for the State of Delaware. The State's solicitation is structured so that respondents may offer their best solution.

Q52. The State requires that all contract costs must be detailed; however, Appendix C-1 doesn't allow room for the contractors to include cost build details. Will the State accept the summary prices as provided for on Appendix C-1, or should supporting cost build detail in an Excel file be attached or included with the proposal?

A52. Summary prices will be accepted. If a vendor would like to provide supporting cost build detail in an attachment, it will be reviewed.

Q53. Since detailed data is required, will the State require the submission of supporting vendor quotes as back up for cost detail?

A53. Yes.

Q54. Is the "holdback" referenced in paragraph 7. j., page 37, the same as the "OMB intends to withhold a percentage of each payment until the application is fully accepted" statement in Section II. F. 3. at the top of page 21? Is the offeror to include in their proposal, amounts for holdback/withhold or will this be negotiated prior to contract award?

A54. Yes, the "holdback" referenced in paragraph 7. j., page 37, the same as the "OMB intends to withhold a percentage of each payment until the application is fully accepted" statement in Section II. F. 3. at the top of page 21. This will be negotiated as part of the contract award.

Q55. Section IV. D., Paragraph 7. h., Page 37 - Is the system required to back-up data to another site?

A55. For locally hosted solutions, Delaware's Department of Technology and Information (DTI) would provide offsite backups. For SaaS solutions, it is assumed that the vendor would be responsible for a backup strategy that would enable them to achieve their contracted recovery time objectives (RTO).

Q56. Are there specific Disaster Recovery requirements for this effort?

A56. For SaaS solutions, a disaster recovery plan is expected but not specified.

Q57. Section IV. D., Paragraph 7. o., Page 38 - No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. Does this requirement mean that only commercial software developed and maintained entirely and exclusively in the US is eligible for proposal under this contract, or is this statement only referring to the specific activities required under this contract to deliver, install, and customize a software solution? If the former, and offshore software development or core maintenance is practiced by the vendor or one of their suppliers, can this requirement be waived for software solutions where the core product development and/or maintenance team is located offshore, but ALL work required to customize and deliver a complete solution to the State is done by a US based implementation team on US soil working with the State to define requirements and customize and implement the approved solution in the US?

A57. Use of commercial off the shelf (COTS) software that has been developed outside the United States is acceptable. However, once the application is taken "off the shelf", the server installations, application data, and user sessions must reside within the United States.

Q58. Does the State have a preferred/targeted start date for this project?

A58. Yes, the State is targeting a project start date of July 1, 2015 and an implementation date of June 1, 2016.

Q59. What are total number of users expected to use proposed system?

A59. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q60. Section A, Paragraph 4a, Page 7-8 - Please provide breakdown of users by the roles identified in Paragraph 4a.

A60. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q61. Section B, Paragraph 7, Page 14 - What are total number of positions (FTE) that are budgeted by State in BDS system?

A61. The Fiscal Year 2015 Operating Budget provides authorization for 31,709.6 FTEs.

Q62. Section B, Paragraph 7, Page 14 -What types of Salary grade structure, Fringe benefits, additional earnings are used by the state? Please provide sample list to help understand complexity of position budgeting process.

A62. This information is not necessary as position budgeting does not include a component for salary structures.

Q63. Section B, Paragraph 6, Page 13 - What is the total number of CIP project normally budgeted during Capital Budgeting process?

A63. Provided below is a 5-year history (estimated) for both requested and budgeted. It important to note new projects are typically added during the mark-up phase, which would not have been provided in the requested phase.

FY15 - 273 Requested, 233 Budgeted  
FY14 - 253 Requested, 205 Budgeted  
FY13 - 263 Requested, 191 Budgeted  
FY12 - 235 Requested, 225 Budgeted  
FY11 - 247 Requested, 191 Budgeted

Q64. Appendix C1, Paragraph 2, Page 20 - The RFP instructions for Appendix C-Future Vendor Rates does not seem to match up with the second table provided in Appendix C-1. As we understand it, the State is requesting a rate card for additional services, yet the table contains four columns titled "number of licenses", "base package or one-time cost", "annual costs", "when annual costs begin". Could the State clarify what it is to be included in this table? Are we only to provide a rate card (by role) for any additional services, if required, or are we to include something different? Please note that we acknowledge that this table is being leveraged for both

on premise and Cloud/SaaS solutions and that the column names may be intended to reflect that.

A64. The Future Vendor Rate section is intended to capture on-going costs associated with the purchase of the proposed software product. Please identify on-going future costs as they pertain to the software solution being proposed.

Q65. Appendix C1, Paragraph 1, Page 20 - Should all pricing for software be included as "other" in the Core Not to Exceed Cost table?

A65. Software pricing may be included in the "other", but please identify each "other" item.

Q66. Section I, Paragraph 1, Page 1 - Can the State please clarify what, if any, aspects of the proposal contract are acceptable to take place outside the United States? For example: implementation services, software customizations, software maintenance, hosting, and managed services for operation and maintenance of vendor hosted environments. Most commercial off the shelf (COTS) software is developed and maintained outside the US in the regular course of software development, and not particular to the State of Delaware.

A66. This is clarified by General Contract Terms section 7o on pages 38-39. Use of commercial off the shelf (COTS) software that has been developed outside the United States is acceptable. However, once the application is taken "off the shelf", the server installations, application data, and user sessions must reside within the United States.

Q67. Section II, Paragraph e) Published Budgets, Page 3 - Question: Can the State please confirm which publications are desired as part of the vendor's proposal? When reviewing the FY 2015 Budget the following publications were available online:

Operating Budget: Fiscal Year 2015 Final Operating Budget Act (SB 255)

- Operating Budget: Fiscal Year 2015 Final Operating Budget Act (SB 255)
- Fiscal Year 2015 Final Operating Budget Supplement
- Capital Budget: Fiscal Year 2015 Final Bond and Capital Improvements Act (HB 425)
- Fiscal Year 2015 Final Capital Budget Supplement
- Grants-in-Aid Bill (SB 266)
- Fiscal Year 2015 Final Operating and Capital Budget Summary
- Press Release announcing the signing of the Fiscal Year 2015 Budget
- Fiscal Year 2015 Governor's Budget Presentation - Financial Overview
- Press Release announcing the release of the Fiscal Year 2015 Governor's Recommended Budget
- Fiscal Year 2015 Governor's Recommended Operating Budget Bill (SB 175)
- Fiscal Year 2015 Governor's Recommended Operating Budget Supplement
- Fiscal Year 2015 Governor's Recommended Operating Budget Volume I
  - Governor's Financial Overview
  - Governor's Budget Overview
  - Governor's Budget Financial Summary and Charts
- Fiscal Year 2015 Governor's Recommended Operating Budget Volume II
- Fiscal Year 2015 Governor's Recommended Bond and Capital Improvements Budget Bill (HB 250)
- Fiscal Year 2015 Governor's Recommended Capital Budget Supplement

- Fiscal Year 2015 Governor's Recommended Capital Budget

A67. Operating Budget: Fiscal Year 2015 Final Operating Budget Act (SB 255)

- Operating Budget: Fiscal Year 2015 Final Operating Budget Act (SB 255) – Section 1 only
- Fiscal Year 2015 Final Operating Budget Supplement
- Capital Budget: Fiscal Year 2015 Final Bond and Capital Improvements Act (HB 425) – Section 1 only
- Fiscal Year 2015 Final Capital Budget Supplement
- Fiscal Year 2015 Governor's Recommended Operating Budget Bill (SB 175) – Section 1 only
- Fiscal Year 2015 Governor's Recommended Operating Budget Supplement
- Fiscal Year 2015 Governor's Recommended Operating Budget Volume I
  - Governor's Financial Overview
  - Governor's Budget Overview
  - Governor's Budget Financial Summary and Charts
- Fiscal Year 2015 Governor's Recommended Operating Budget Volume II – reports currently published through existing budget system
- Fiscal Year 2015 Governor's Recommended Bond and Capital Improvements Budget Bill (HB 250) – Section 1 only
- Fiscal Year 2015 Governor's Recommended Capital Budget Supplement
- Fiscal Year 2015 Governor's Recommended Capital Budget

Q68. Section II, Paragraph 2, Page 3 - Can the State please clarify the use of the term “third party”? If the vendor proposes an on-premise solution hosted in the State of Delaware data center, can the State confirm if this service is provided by State employees or contracted vendor(s)? We typically interpret third party to be contracted vendors.

A68. The current DBS system is not hosted at OMB. The server is housed and maintained by Delaware's Department of Technology and Information (DTI). This is another State agency that centrally manages Delaware's IT infrastructure. If your solution is a traditional server based solution, we would require that the server be housed within DTI's data center. From OMB's point of view, DTI is a third part host.

Q69. Section Appendices, Tab B-1, Reference # 47 - Can the State please clarify “level 7 data center”? There does not appear to be a definition in the referenced document.

A69. The vendor is correct. The numbered levels appear to be part of an older internal DTI standard. The newer standards referenced in <http://dti.delaware.gov/pdfs/pp/DataCenterPolicy.pdf> call for meet or exceed a Tier 2 rating.

Q70. External Hosted / SaaS Solutions, Paragraph C Data Center Rating (required for outsourced solution) - Can the State please clarify which level and/or tier is required of the vendors hosted solution?

A70. Data Center Rating is covered on RFP page 61 section 4C. The vendor must meet or exceed a Tier II rating (as defined in the Uptime Institute Guidelines for 2012 (or the latest version at the time of this RFP), Data Center Site Infrastructure Tier Standard, Topology and

Data Center Site Infrastructure Tier Standard, and Operational Sustainability for the data center hosting the proposed solution. The Uptime Institute publications can be accessed online at: <http://uptimeinstitute.com/publications>. Additional information about the State's data center standards can be found at <http://dti.delaware.gov/pdfs/pp/DataCenterPolicy.pdf>.

Q71. Section II, Paragraph C.7., Page 18 - Can the state clarify the number of State FTEs and the availability of resources, by month, that will be available for this effort?

A71. Technical and functional experts are currently available to review RFP responses. Once a vendor is selected, resources will be made available as necessary based on the product selected.

Q72. Would the State consider extending the deadline of the proposal to January 16, 2015?

A72. No, however, the State intends to extend the deadline to December 26, 2014.

Q73. Does the State have a preference for cloud based budgeting solutions vs. on-premise or Hosted budgeting solutions?

A73. No, the RFP was designed to accept either Software as a Service (SAAS) or traditional onsite server based solutions.

Q74. Does the State have specific requirements related to remote work versus onsite or can we propose the mix that best achieves the project objectives with the lowest cost?

A74. There are no specific requirements related to remote work versus onsite. This should be detailed as part of your implementation strategy. Please propose the mix that best achieves the project objectives with the lowest cost.

Q75. What will the total number of users of the new budgeting system be?

A75. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q76. What will the total number of subject matter experts using the new budgeting system be?

A76. Approximately 16, please see Addendum# 2 for clarification of user roles and the number of current users.

Q77. Can the State provide a copy or list of the current budgeting/forecasting process flows?

A77. Current process flow is identified in the RFP under Section II. Scope of Services, A. Current Business Processes, 1. Annual Budget Process, pages 1-3.

Q78. Can the State provide a copy or list for the budget and forecast calculations?

A78. Budget calculations are identified in the RFP under Section II. Scope of Services, A. Current Business Processes, pages 1-11.

Q79. Section II, Paragraph A-2, Page 3 - Other than MS SQL and Microsoft's Enterprise Reporting 7.5, are any other data sources expected to interface with the chosen solution?

A79. The chosen solution is expected to replace the current DBS system.

Q80. Section II, Paragraph A-1-g, Page 3 - What exactly is a duplicate key record and why is it summed together?

A80. The current budget system has a primary key of organization + appropriation + account code + value. The accounting system may have multiple spend records for an organization, appropriation, and account code combination. Multiple records are summed to create a single record.

Q81. Section II, Paragraph A-2-1, Page 3 - Is the current web-based system real time? Does it run scheduled reports or provide data directly from the database? Are there any dashboards available? Real-time dashboards?

A81. The current web-based system operates in real time. Reports are generated on demand. We currently do not have dashboards available.

Q82. Section 10, Paragraph B-2, Page 9 - Need clarification on the rounding methodology. How is the data reconciled back to the source?

A82. Reconciliation is done manually through the verification of a control report.

Q83. Section 11, Paragraph B, Page 16 - "What if" capability is needed on which measures?

A83. "What If" or Ad Hoc queries/reports should be available across all the data within the system.

Q84. Paragraph B4, Page 12- Is data entered at the IPU level and is this the lowest level of the hierarchy? Is data only entered at the IPU level? Is data entered at the IPU level ever a subtotal?

A84. IPU is the lowest level of an organization. Data is entered into accounts that are assigned to an appropriation within an IPU. IPU's roll up to APUs then up to Departments.

Q85. Section B, Page 2, Page 11-12 - What is the total number of users or anticipated users?

A85. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q86. Section II, Paragraph B-12-b, Page 16 - What type of LDAP do you prefer?

A86. The current system doesn't use LDAP. However, The State of Delaware uses Active Directory that could be used for Single Sign On (SSO) authentication. However, there are several entities that use the budget system outside of our AD infrastructure. These individuals would continue to need local accounts.

Q87. Section II, Paragraph B-13, Page 17 - Please provide further detail about the volume of data that is expected to be stored for 10 years of history. How granular is this data expected to be please? For example, dimensions by year (10 years @ 12 months w/total), department (70 departments w/total), etc.

A87. 10 years at three processes per year should be stored at the most granular level. For the operating budget, we started this year with 19,537 base records that could be altered by up to five service level adjustments per budget process.

Q88. Section II, Paragraph B-14, Page 17 - Please confirm that the historical data from FY2010 to present can be staged in a historical cube for reference and does not need to be included in the functionality of the model.

A88. It would be preferable to import the historic data into the new system. For example, five year funding reports work best when there is five years of data available online.

Q89. Section II, Paragraph B-15-b, Page 17 - Please describe the data cleanup you wish to eliminate.

A89. The current inbound process is identified in the RFP under Section II. Scope of Services, 10. Data Interfaces, b) Actuals Operating Inbound on pages 9-10.

Q90. Section II, Paragraph B-15-C, Page 17 - How much history are you planning to migrate for Capital Budget?

A90. Capital is currently a manual process. We will not be migrating historic data for Capital.

Q91. Section II, Paragraph C-1, Page 17 - Will the OMB PM be the lead PM, or are you expecting the vendor to provide PM lead for the duration of the project?

A91. It is anticipated that there will be a PM on the State side and on the vendor side, who will collaborate on efforts.

Q92. Section II, Paragraph C-4, Page 18 - Can the training be provided via video series, or must it be live?

A92. The State is open to training via video series.

Q93. Section II, Paragraph C-5, Page 18 - Will the State's project team be available and actively engaged in the building process of the models? Our experience is that this is the most effective way to transfer knowledge.

A93. Yes, it is anticipated that the State's project team will be available and actively engaged in the building process of the models

Q94. Section C, Paragraph 7, Page 18 - Is there a requirement for a custom interface for users to access system?

A94. A custom interface should not be necessary.

Q95. Appendix C, 3, 20 - What Project team members will the state provide for this project? What is each of their experience level with the current processing and vision of the state? What percentage of their time will be dedicated to this project?



A95. Technical and functional experts are currently available to review RFP responses. Once a vendor is selected, resources will be made available as necessary based on the product selected.

Q96. Appendix C, 4, 21 - In order to calculate licensing Costs, we need the following information:

How many Admins with the ability to add users and set security do you need?

How many users will need to be able to build/maintain your budgeting models? (Power users)

How many users will need read and write access to your models?

How many users will need read only access to your models?

A96. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q97. Appendix C, 4, 21 - Do you have a hardware specification you prefer? If so please describe the make and model of the servers.

A97. We do not have hardware preferences for SaaS solutions. For onsite solutions, servers will be hosted at Delaware's Department of Technology and Information. The preference for their environment is the use of VMware virtual machines.

Q98. Appendix C, 4, 21 - How many environments, Test, Dev, Prod, do you anticipate? Are all environments to have identical server specifications?

A98. We currently have two environments (Development and Production).

Q99. Appendix C, 3, 21 - Will the State designate any dedicated resources to the delivery effort of this project? If so, please provide the role, responsibilities and % of availability. (IE System Admin, become solution SME, 50%)

A99. Technical and functional experts are currently available to review RFP responses. Once a vendor is selected, resources will be made available as necessary based on the product selected.

Q100. Attachment 12, 3A, 58 - Do you prefer On-Premises or SAAS?

A100. There is no preference for onsite versus SaaS.

Q101. Appendix B1, Mandatory Required Functions – General - Please describe the difference in these roles. Are the 6 users mentioned (administrators, power users or other type of users)?

A101. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q102. Section B. New System Requirements, Page 11 - What is the total number of users that this solution would be rolled out to?

A102. Please see Addendum# 2 for clarification of user roles and the number of current users.

Q103. Section 3. Auditing, Page 12 - Can you please explain the requirement to review and track deleted records by time and date? This has system performance impacts and design considerations.

A103. We will require an audit trail for changes made to the system.

Q104. Section 5. Operating Budget Module, Page 13 - What is the implementation due date for each of the following processes:

- a. BREQ
- b. BREC
- c. BFIN

It is also stated that the Capital Budget follows the above timeline so can we assume that it is on the same timeline?

A104. The State is targeting a project start date of July 1, 2015 and an implementation date of June 1, 2016 for all processes, including the Capital Budget.

Q105. Section 13. Data Retention Requirements, Page 17 - Can the State elaborate on the requirement for 10 years' worth of plan data in the system?

A105. Our current database capacity is only limited by data storage hardware. If our new system becomes a Software as a Service (SaaS), we would anticipate the need for reporting up to 10 years of granular budget data. 10 years at three processes per year should be stored at the most granular level. For the operating budget, we started this year with 19,537 base records that could be altered by up to five service level adjustments per budget process.

Q106. Section 8. Final Acceptance Testing, Page 18 - Does State of Delaware have any recommended approach or tool for performing stress testing or can we select a tool of our choice?

A106. No, the State does not have a recommended approach or tool.

Q107. Section 2. Future Vendor Rates, Page 20 - Can you elaborate on what you are considering about long-term software licensing? Are you asking the services vendor to help layout a roadmap for future expansion of software?

A107. The Future Vendor Rate section is intended to capture on-going costs associated with the purchase of the proposed software product, including on-going maintenance costs, annual licenses and additional licenses as necessary for the product proposed. Please identify on-going future costs as they pertain to the software solution being proposed.

Q108. General - Is State looking at using any of the Hyperion prebuilt Planning Solutions or Cloud Solutions? (For E.g. Public Sector Planning and Budget.)

A108. The purpose of this RFP is to acquire a new budget system. Hyperion prebuilt Planning Solutions or Cloud Solutions can be considered as part of the bid process

Q109. Section Terms and Conditions, Page 32 - It is a common approach to offer hosting and third party product resell terms that include the State's execution of the applicable terms directly with the third party vendors. The advantages of this approach to the State include direct relationships with those vendors for purposes of warranty, upgrades, and continuity after the system integrator's contract has expired. Will the State consider entering into those agreements directly with those third parties? In this scenario, the system integrator would include those parties' terms as part of its proposal and would facilitate any clarifications and negotiations with those third party vendors as part of the resell.

A109. The State is looking for best value for a future system and is open to this consideration as long as the third party will agree to the Terms and Conditions as outlined in the RFP.

Q110. Section Terms and Conditions, Page 32 - Will the State agree to and include a commercially reasonable limitation of liability in the contract?

A110. Liability standards are identified in the RFP. If you propose an exception, it must be noted in your RFP response.

Q111. Section Terms and Conditions, Page 32 - Are the indemnities as included in the RFP negotiable and more specifically, would the State consider eliminating the general indemnity and the security breach indemnity? In the latter scenario, the contractor would remain liable for a performance breach or a security breach subject to the limitation of liability but would not have the broader affirmative and uncapped obligations to indemnify.

A111. Indemnity standards are identified in the RFP. If you propose an exception, it must be noted in your RFP response.

## PROFESSIONAL SERVICES AGREEMENT

This Agreement (Agreement) is entered into as of \_\_\_\_\_, 20\_\_\_\_ (Effective Date) and will end on \_\_\_\_\_, 20\_\_\_\_, by and between the State of Delaware, Department of \_\_\_\_\_, Division of \_\_\_\_\_, \_\_\_\_\_ ("Delaware"), and VENDOR NAME, a \_\_\_\_\_ corporation, with offices at \_\_\_\_\_.

WHEREAS, Delaware desires to obtain certain services to \_\_\_\_\_; and \_\_\_\_\_.

WHEREAS, VENDOR NAME desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and VENDOR NAME represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and VENDOR NAME agree as follows:

### 1. Services.

- 1.1. VENDOR NAME shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware's request for proposals, attached hereto as Appendix \_\_\_\_; and (c) VENDOR NAME's response to the request for proposals, attached hereto as Exhibit \_\_\_\_\_. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.
- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by VENDOR NAME shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify VENDOR NAME, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by VENDOR NAME for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.
- 1.4. VENDOR NAME will not be required to make changes to its scope of work that result in VENDOR NAME's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under

Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

## **2. Payment for Services and Expenses.**

- 2.1. The term of the initial contract shall be from \_\_\_\_\_, 20\_\_\_\_ through \_\_\_\_\_, 20\_\_\_\_.
- 2.2. Delaware will pay **VENDOR NAME** for the performance of services described in Appendix \_\_\_\_\_, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix \_\_\_\_\_.
- 2.3. Delaware's obligation to pay **VENDOR NAME** for the performance of services described in Appendix \_\_\_\_\_, Statement of Work will not exceed the fixed fee amount of \$\_\_\_\_\_. It is expressly understood that the work defined in the appendices to this Agreement must be completed by **VENDOR NAME** and it shall be **VENDOR NAME**'s responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to **VENDOR NAME**.
- 2.4. **VENDOR NAME** shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide **VENDOR NAME** a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle **VENDOR NAME** to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to **VENDOR NAME, VENDOR ADDRESS**.
- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by **VENDOR NAME**. If an Appendix specifically provides for expense reimbursement, **VENDOR NAME** shall be reimbursed only for reasonable expenses incurred by **VENDOR NAME** in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7. Delaware shall subtract from any payment made to **VENDOR NAME** all damages, costs and expenses caused by **VENDOR NAME**'s negligence, resulting from or arising out of errors or omissions in **VENDOR NAME**'s work products, which have not been previously paid to **VENDOR NAME**.

2.8. Invoices shall be submitted to:

### **3. Responsibilities of **VENDOR NAME**.**

3.1. **VENDOR NAME** shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by **VENDOR NAME**, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, **VENDOR NAME** shall follow practices consistent with generally accepted professional and technical standards. **VENDOR NAME** shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, **VENDOR NAME** shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. **VENDOR NAME** shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by **VENDOR NAME**'s failure to ensure compliance with DTI standards.

3.2. It shall be the duty of the **VENDOR NAME** to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. **VENDOR NAME** will not produce a work product that violates or infringes on any copyright or patent rights. **VENDOR NAME** shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3. Permitted or required approval by Delaware of any products or services furnished by **VENDOR NAME** shall not in any way relieve **VENDOR NAME** of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of **VENDOR NAME**'s services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and **VENDOR NAME** shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by **VENDOR NAME**'s performance or failure to perform under this Agreement.

3.4. **VENDOR NAME** shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the

Project Manager, or by **VENDOR NAME**'s associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project	Team	Title	% of Project Involvement
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- 3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, **VENDOR NAME** will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If **VENDOR NAME** fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of **VENDOR NAME** is unsuitable to Delaware for good cause, **VENDOR NAME** shall remove such employee from the performance of services and substitute in his/her place a suitable employee.
- 3.6. **VENDOR NAME** shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 3.7. **VENDOR NAME** agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 3.8. **VENDOR NAME** has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 3.9. **VENDOR NAME** will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

#### 4. Time Schedule.

- 4.1. A project schedule is included in Appendix A.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that **VENDOR NAME** fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted



in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A.

## **5. State Responsibilities.**

- 5.1. In connection with **VENDOR NAME**'s provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with **VENDOR NAME** in the performance of services under this Agreement and will be available for consultation with **VENDOR NAME** at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.3. The services performed by **VENDOR NAME** under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform **VENDOR NAME** by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to **VENDOR NAME**. It is understood that Delaware's representatives' review comments do not relieve **VENDOR NAME** from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- 5.5. Delaware shall, without charge, furnish to or make available for examination or use by **VENDOR NAME** as it may request, any data which Delaware has available, including as examples only and not as a limitation:
  - a. Copies of reports, surveys, records, and other pertinent documents;
  - b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

**VENDOR NAME** shall return any original data provided by Delaware.

- 5.6. Delaware shall assist **VENDOR NAME** in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- 5.7. **VENDOR NAME** will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

- 5.8. Delaware agrees not to use **VENDOR NAME**'s name, either express or implied, in any of its advertising or sales materials. **VENDOR NAME** reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

## **6. Work Product.**

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by **VENDOR NAME** for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. **VENDOR NAME** shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.
- 6.2. **VENDOR NAME** retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which **VENDOR NAME** retains title, whether individually by **VENDOR NAME** or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.
- 6.3. In no event shall **VENDOR NAME** be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, **VENDOR NAME** shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by **VENDOR NAME** prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of **VENDOR NAME** even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

## **7. Confidential Information.**

To the extent permissible under 29 *Del. C.* ' 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

## **8. Warranty.**

- 8.1. **VENDOR NAME** warrants that its services will be performed in a good and workmanlike manner. **VENDOR NAME** agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by **VENDOR NAME** for Delaware in connection with the provision of the Services, **VENDOR NAME** shall pass through or assign to Delaware the rights **VENDOR NAME** obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

## **9. Indemnification; Limitation of Liability.**

- 9.1. **VENDOR NAME** shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of:
  - a. the negligence or other wrongful conduct of the **VENDOR NAME**, its agents or employees, or
  - b. **VENDOR NAME**'s breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that
    - i. **VENDOR NAME** shall have been notified promptly in writing by Delaware of any notice of such claim; and
    - ii. **VENDOR NAME** shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.
- 9.2. If Delaware promptly notifies **VENDOR NAME** in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, **VENDOR NAME** will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. **VENDOR NAME** will not indemnify Delaware, however, if the claim of infringement is caused by:
  - a. Delaware's misuse or modification of the Deliverable;

- b. Delaware's failure to use corrections or enhancements made available by **VENDOR NAME**;
- c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by **VENDOR NAME**;
- d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
- e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in **VENDOR NAME**'s opinion is likely to be, held to be infringing, **VENDOR NAME** shall at its expense and option either
  - i. Procure the right for Delaware to continue using it,
  - ii. Replace it with a non-infringing equivalent,
  - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and **VENDOR NAME**'s entire liability with respect to infringement.

- 9.3. Delaware agrees that **VENDOR NAME**' total liability to Delaware for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or **VENDOR NAME** negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to **VENDOR NAME**.

In no event shall **VENDOR NAME** be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if **VENDOR NAME** has been advised of the likelihood of such damages.

## **10. Employees.**

- 10.1. **VENDOR NAME** has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by **VENDOR NAME** in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.
- 10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party

employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

- 10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of **VENDOR NAME** who will be assigned to this project.

## **11. Independent Contractor.**

- 11.1. It is understood that in the performance of the services herein provided for, **VENDOR NAME** shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. **VENDOR NAME** shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- 11.2. **VENDOR NAME** acknowledges that **VENDOR NAME** and any subcontractors, agents or employees employed by **VENDOR NAME** shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.
- 11.3. **VENDOR NAME** shall be responsible for providing liability insurance for its personnel.
- 11.4. As an independent contractor, **VENDOR NAME** has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

## **12. Suspension.**

- 12.1. Delaware may suspend performance by **VENDOR NAME** under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to **VENDOR NAME** at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay **VENDOR NAME** its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. **VENDOR NAME** shall not perform further work under this Agreement after the effective date of suspension. **VENDOR NAME** shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

12.2. In the event Delaware suspends performance by **VENDOR NAME** for any cause other than the error or omission of the **VENDOR NAME**, for an aggregate period in excess of 30 days, **VENDOR NAME** shall be entitled to an equitable adjustment of the compensation payable to **VENDOR NAME** under this Agreement to reimburse **VENDOR NAME** for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

### **13. Termination.**

13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after **VENDOR NAME** is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with Delaware prior to termination.

13.3. If termination for default is effected by Delaware, Delaware will pay **VENDOR NAME** that portion of the compensation which has been earned as of the effective date of termination, but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to **VENDOR NAME** at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of **VENDOR NAME**'s default.
- c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event **VENDOR NAME** shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of **VENDOR NAME** assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4. If after termination for failure of **VENDOR NAME** to fulfill contractual obligations it is determined that **VENDOR NAME** has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

13.5. The rights and remedies of Delaware and **VENDOR NAME** provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

**13.6. Gratuities.**

- a. Delaware may, by written notice to **VENDOR NAME**, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by **VENDOR NAME** or any agent or representative of **VENDOR NAME** to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.
- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against **VENDOR NAME** it could pursue in the event of a breach of this Agreement by **VENDOR NAME**.
- c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**14. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**15. Assignment; Subcontracts.**

- 15.1. Any attempt by **VENDOR NAME** to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.
- 15.2. Services specified by this Agreement shall not be subcontracted by **VENDOR NAME**, without prior written approval of Delaware.
- 15.3. Approval by Delaware of **VENDOR NAME**'s request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve **VENDOR NAME** of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.



15.4. **VENDOR NAME** shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by **VENDOR NAME**, its subcontractor or its sub-subcontractor.

15.5. The compensation due shall not be affected by Delaware's approval of the **VENDOR NAME**'s request to subcontract.

#### **16. Force Majeure.**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

#### **17. Non-Appropriation of Funds.**

17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

#### **18. State of Delaware Business License.**

**VENDOR NAME** and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

#### **19. Complete Agreement.**

19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and **VENDOR NAME** with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3. **VENDOR NAME** may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

## **20. Miscellaneous Provisions.**

20.1. In performance of this Agreement, **VENDOR NAME** shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. **VENDOR NAME** shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4. **VENDOR NAME** covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. **VENDOR NAME** further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5. **VENDOR NAME** acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. **VENDOR NAME** recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare **VENDOR NAME** in breach of the Agreement, terminate the Agreement, and designate **VENDOR NAME** as non-responsible.

20.6. **VENDOR NAME** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8. **VENDOR NAME** shall maintain all public records, as defined by 29 *Del. C.*  ' 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.*  Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit **VENDOR NAME**' performance and records pertaining to this Agreement at the **VENDOR NAME** business office during normal business hours.

## **21. Insurance.**

21.1. **VENDOR NAME** shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- b. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence, **and**
- c. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence; or
- d. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence, or
- e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. **VENDOR NAME** shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

## **22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, **VENDOR NAME** hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to

all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

### 23. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. **VENDOR NAME** consents to jurisdiction venue in the State of Delaware.

### 24. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

DELAWARE:

(Agency contact address) \_\_\_\_\_

VENDOR:

(Vendor contact address) \_\_\_\_\_

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

**STATE OF DELAWARE**  
**DEPARTMENT OF** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**VENDOR NAME**

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title